



CAMPAIGNING FOR ELECTIVE OFFICE BEFORE THE ONE-YEAR PRE-ELECTION FUNDRAISING TIME PERIOD

Note: this fact sheet has been updated in response to the U.S. District Court's February 16, 2010, preliminary injunction in *Thalheimer v. City of San Diego*, which precludes the City's enforcement of any limits on when a candidate may use personal funds to advance his or her candidacy.

The City's Election Campaign Control Ordinance [ECCO] prohibits candidates from soliciting or accepting contributions more than a year before a primary election. This fact sheet is designed to offer general guidance concerning this prohibition to candidates for elective City office as well as to their supporters and prospective campaign staffers. This fact sheet should not be considered a substitute for the actual language contained within San Diego Municipal Code sections 27.2901 through 27.2991.

GENERAL RULES

- ❖ This fact sheet applies to those who have announced their candidacy and those who have yet to make that announcement. It applies to current City officeholders contemplating another term of office and to members of the general public considering whether or not to run for City office.
- ❖ ECCO prohibits candidates from soliciting or accepting contributions for an election from anyone else until one year prior to the date of the primary election. Contributions include monetary donations as well as non-monetary or "in-kind" donations such as printing costs, postage, and equipment.
- ❖ The prohibitions discussed in this fact sheet do not apply to a candidate's personal funds. A candidate may spend unlimited sums of his or her own money on campaign flyers, door hangers, yard signs, postage, etc. before the one-year pre-election period.
- ❖ Prior to the one-year pre-election period, candidates may not solicit or accept contributions from anyone else for the purpose of disseminating materials that announce or advocate their candidacy, list their qualifications for office, or otherwise imply that they are qualified to hold elective office.
- ❖ In general, candidates are listing their "qualifications for office" when they state their opinions on governmental issues or reference their substantial service on matters related to governmental issues and/or policies. For example, when candidate John Smith asks his supporters to help him pay for door hangers that say "John Smith has served on the Planning Commission for eight years, and is dedicated to curbing development in the City's beach areas," he is planning to list his "qualifications for office." He cannot solicit or accept contributions from others to fund such messages until the one-year pre-election period begins.
- ❖ Similarly, prior to the one-year pre-election period, a candidate may not solicit or accept money from others in order to maintain a website that advocates his or her candidacy, lists his or her qualifications for office, or otherwise implies that he or she is qualified to hold elective office.
- ❖ In addition, a candidate may not ask others to pay to disseminate campaign materials on his or her behalf prior to the one-year pre-election period. Such payments would be considered an "in-kind" contribution to the candidate.

- ❖ Note that the prohibition includes the solicitation of contributions. In other words, before the one-year pre-election period, candidates may not ask individuals to make a contribution at a later date, or obtain credit card information in order to process a contribution at a later date.

HOME/OFFICE EVENTS

- ❖ The above prohibitions do not apply to a person hosting a non-fundraising event in his or her home or office, so long as the total cost of the event is \$500 or less.
- ❖ Under this exception, friends or supporters of a candidate may spend up to \$500 to host an event at their homes to announce a candidacy or discuss campaign matters prior to the one-year pre-election period. The money they spend on the event (\$500 or less) will not be considered a “contribution” to the candidate.
- ❖ Keep in mind, however, that no food, beverages, entertainment, or similar goods or services may be donated to the event by anyone other than the occupants of the home or office or the candidate himself or herself; such donations would result in the candidate accepting an unlawful “in-kind” contribution if the event took place more than one year before the primary election.
- ❖ No fundraising may take place at such an event until one year before the primary election.

OTHER ALLOWABLE ACTIVITIES

- ❖ Because the prohibition applies only to the solicitation and acceptance of contributions from others (both monetary and in-kind), prospective candidates are free to walk their precincts and speak with the public on any matter, including their candidacy, so long as they do not ask for contributions or distribute campaign materials not paid for with personal funds.
- ❖ The one-year pre-election time limit does not impact the scheduling of fundraising events. It is only the actual act of soliciting contributions (e.g., sending out invitations to a fundraising event) or accepting contributions that is prohibited before the one-year pre-election period begins.

EXPLORATORY ACTIVITIES

- ❖ ECCO does not prevent a prospective candidate or that candidate’s friends or supporters from spending money on “exploratory activities” before the one-year pre-election period. Exploratory activities are designed to help an individual decide whether or not to run for office, and are generally limited to conducting polls and surveys that:
 - ✓ determine the issues that are important to voters;
 - ✓ determine the degree of name recognition an individual may have; or
 - ✓ determine the percentages of voters who might vote for a particular individual.
- ❖ Exploratory polls and surveys paid by anyone other than the candidate must be carefully worded prior to the one-year pre-election period to avoid all forms of advocacy. Language in such polls or surveys that mentions a prospective candidate’s qualification for City elective office, or identifies people who are supporting or endorsing the prospective candidate, would not be permitted under ECCO.
- ❖ Exploratory expenses become reportable as in-kind contributions once an individual decides to run for office. Note that a purely exploratory expense that becomes an in-kind contribution prior to the one-year pre-election period (because the individual has decided to run for office) does not violate the prohibition against accepting contributions prior to the pre-election period.

For additional information, please contact the Ethics Commission at (619) 533-3476.